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February 26, 2007
Via Federal Express

Office of General Counsel
ENFORCEMENT DIVISION
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

MUR # 5903

2007 FEB 26 4 12

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

COMPLAINT *In Re* The PBS&J Corp.
5300 W. Cypress Street
Tampa, Florida 33607
[EID] No. 59-1494168,
Respondent.

Dear Counsel:

Enclosed for filing pursuant to 2 U.S.C. § 437g(a)(1), 11 C.F.R. § 111.4 (2006) is the original executed complaint in the above-captioned matter, plus 3 copies, submitted by the complainant, Maria M. Garcia, whom this firm represents (See Privacy Act Waiver, attached).

Kindly acknowledge receipt in advance of the five (5) days referenced in 11 C.F.R. § 111.5(a), if practicable and filed in proper scope and form, to expedite processing and submission of additional evidence, if requested.

We respectfully request the name, direct telephone extension, and e-mail for the staff attorney to whom this matter is assigned.

29044253591

We thank you in advance for your kind consideration.

Very truly yours,

By:


BENSON WEINTRAUB

Enc.

cc: Paul D. Petruzzi, Esq.

29044253592

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COMPLAINT

In Re: The PBS&J Corp.
5300 W. Cypress Street
Suite 200
Tampa, Florida 33607
[EID] No. 59-1494168,

Respondent.

**I.
JURISDICTION**

1. This independent agency within the meaning of Title 5, United States Code, maintains jurisdiction and authority to investigate violations of Federal Finance Campaign Laws, 2 U.S.C. §§ 431, *et seq.*, and implementing regulations codified at 11 C.F.R. § 1, *et seq.*¹

**II.
PARTIES**

2. Respondent, PBS&J Corporation and its affiliated companies (hereafter, PBSJ), is an engineering and design firm registered with the SEC pursuant to §§ 12(b),(g) of the Securities and Exchange Act of 1934.

¹ "The FECA also provides the FEC, an independent agency of the United States government, with exclusive jurisdiction over enforcing its provisions. See 2 U.S.C. §§ 437c(b)(1), 437d(e) and 437g. The FEC is authorized to institute investigations of possible violations of FECA. 2 U.S.C. §§ 427g(a)(1) and (2). The FECA also permits "any person" to file a signed, *29 sworn administrative complaint with the FEC alleging a violation of FECA, see 2 U.S.C. § 437g(a)(1), and proscribes certain steps that must be taken in processing an administrative complaint." *Kass for Congress Comm. V. FEC*, 398 F.Supp.2d 26, 28-29 (D.D.C. 2005).

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A. Corporate & Individual Targets

3. The former Chief Financial Officer (CFO) of PBSJ, William Scott DeLoach, plead guilty, *inter alia*, in September 2006 to serving as an unlawful conduit for an aggregate \$11,000 political contribution to US Senator Mel Martinez (R-FL) in October 2004. *See United States v. DeLoach, et. al.*, Case No. 06-20583-Cr-King (S.D.FL) in violation of 2 U.S.C. §§ 441f, 437g(d). Sentencing is pending, probably in mid to late March 2007.

4. This agency should open an investigation and "matter under review" (MUR) relative to the decades of political corruption (as summarized below) of PBSJ as a corporate entity; moreover, the FEC should consider investigating other putative [individual] respondents, including but not limited to the firm's former CEO, Richard Wickett, as more fully set forth, *infra*.

B. Complainant Confesses to the United States Attorney & FBI Regarding Her Role in Respondent's Detailed History of Illegal Campaign Finance Violations and Her Unrelated Multi-Million Dollar Misappropriation From PBJS In Concert With the CFO

5. Complainant, Maria Garcia, was employed at PBSJ for approximately 20 years and in April 2005 self-reported to the US Attorney for the Southern District of Florida her own role, with DeLoach and another codefendant, in engaging in a pattern of decade(s) long illegal campaign violations, including reimbursement of respondent's employees, friends and spouses for political contributions imputed to respondent otherwise proscribed by law and regulation.²

² AT THE OUTSET, please note that complainant's knowledge of respondent's violation of election laws is largely historical, beyond the criminal statute of limitations in many cases, her testimony and evidence is largely historical, repetitive and cumulative to the *actual* witnesses in a so-called "ongoing investigation," and the same information proffered herein was provided to the FBI and US Attorney 2-years ago.

Though the media has reported the convening of a federal grand jury investigating illegal campaign contributions in the Southern District of Florida, *Cf.* Rule 6(e), complainant has never been called as a witness nor does she or her counsel have actual knowledge of such jury or ongoing investigation.

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6. Complainant was also the first of the charged defendants to self-report their offenses to the US Attorney regarding a *separate* criminal offense, conspiring to misappropriate approximately \$20 million from PBSJ. This conduct against DeLoach, Garcia and Rosario Licata is consolidated in Case No. 06-20583-Cr-King, *supra*.³

III. STATEMENT OF FACTS

A. Culture of Corruption and Deliberate Lack of Corporate Governance to Promote Plausible Deniability

7. In self-reporting her own criminality, complainant "blew the lid" off decades of respondent's institutionalized corporate misconduct, unrelated to the "misappropriation," including systematic violation of federal, state, and local election laws.

8. Respondent also engaged in a routine fraudulent over billing of the federal government and other victims, fabrication of cost multipliers and falsification of actual employee timesheets under the direction and supervision of the highest administrative levels at PBSJ.

B. Corporate Reimbursement of Employee Political Contributions, Including Spouses and Friends, With Express Agreement for Full Reimbursement by PBSJ

9. As long as complainant can recall working at PBSJ and its predecessor companies, she observed that it was customary for the CEO and/or CFO, in conjunction with the Board, to direct vice presidential level and other employees, their friends, and spouses to financially contribute to the campaign of candidates in elections on all political levels, including [on information and belief], the federal level (the outcome(s) of which could

³ On March 30, 2005, petitioner was confronted by respondent's Board, auditors, and, CEO with evidence of her role in the misappropriation which she promptly admitted. At respondent's suggestion, she obtained counsel to negotiate a settlement with PBSJ. But as these meetings commenced, petitioner's counsel had already alerted the US Attorney's Office of the commission of egregious corporate crimes and an economic crime by petitioner.

benefit PBSJ commercially) with an express agreement that PBSJ would reimburse them for the political contribution.

C. Past CEO's Role

10. Complainant was directed for at least a year by Richard Wickett to prepare false documentation evidencing reimbursement to the donor/employee on some fictional billing basis, just as petitioner was trained to do by the top corporate leadership.⁴

D. "Manner and Means"

11. The amount and frequency of the contributions and reimbursements varied from month to month and year to year. However, complainant expressly recalls some months in which approximately 80 checks/reimbursements were 'processed,' there might be a brief respite, and the operation would begin in earnest again a couple of months later.

E. PBSJ Attempts to Obstruct Justice

12. Though complainant reported the misappropriation from PBSJ to the US Attorney while "restitution" discussions were in progress between complainant, counsel and respondent, respondent sought to settle this matter quietly, "in house," according to coded but expressly clear PBSJ corporate parlance.

13. That is, in exchange for restitution, PBSJ indicated it would not contact law enforcement about the corporate embezzlement, as it had 'successfully' kept other similar incidents "in house" in the past.

⁴ In a recent SEC filing, respondent announced an unprecedented 4- year "tolling agreement" promising not to sue Wickett to sell back his \$1.2 million in PBSJ stock, but he won't get any money now. Though Wickett denies any wrongdoing, it has been reported that he is under investigation for over billing government clients and making illegal campaign contributions. Clearly, this passive and dilatory approach by PBSJ, and the government's less than enthusiastic "ongoing investigation" underscores the low priority by the victim and government to which this matter has been assigned. *See also* Christensen & Danner, *PBSJ May Have Claims Against Ex-Chairman*, MIAMI HERALD (Feb. 17, 2007).

14. Rather than have the US Attorney review any of its books, systems and records and uncover incriminating evidence of other more serious offenses committed by the company itself,⁵ and its officers and Board Members, it seemed more prudent from a business model—missing its moral compass— that it was just ‘better to take the hit.’

F. Complainant's Debriefing by US Attorneys and FBI

15. Complainant and her counsel alerted the US Attorneys Office as their discussions with PBSJ regarding restitution were ongoing.

16. On April 20, 2005, Complainant, with counsel, met with the FBI, the Director and Deputy Directors of the US Attorney's Office Economic Crimes Section and disclosed the details and dynamics of the ‘misappropriation’ which is what the US Attorney was focusing upon, almost to the exclusion of any utility the Complainant had in the government's deliberation of this very sensitive prosecutorial issue— should DOJ, and the local US Attorney aggressively pursue political corruption regardless of the target's political clout?

17. And if so, why hasn't the Justice Department, Criminal or Civil, or this independent agency (FEC) even requested to speak with Complainant in the past two years?

18. Almost as a begrudging footnote, the FBI-302 (April 20, 2005) form mentions at the end “. . . [F]or the past approximately fifteen years, PBSJ has been making contributions through their employees in violation of election laws.” *Id.* (emphasis added). Was this information transitted to the FEC? If so, in a timely manner/ And by whom?

⁵ According to SEC Form10-K (1/27/2007), respondent conducts a whopping 77% of its business with governmental components, a genuine Halliburton © replication on a smaller scale (4000 employees, but engineering and design contracting for urban, rural, global, transportation, infrastructure, military procurement, airports, roads, etc.).

G. Sen. Max Cleland Donation Reimbursed by PBSJ

19. Ms. Garcia, it had been speculated, was thought by some to have been the source of evidence in 2006 of another recent allegation of unlawful reimbursement by PBSJ to a candidate for the United States Senate in 2002. The then incumbent Senator received an out-of state- donation from James Breland, identified in FEC reports as an employee of PBSJ.

20. Yet it was the Miami Herald,⁶ not the Department of Justice, that kept probing, digging and exploring this multi-faceted story, serving as the impacted trade industries' most reliable access to information. They reported:

"There is absolutely no basis to believe that any political contribution would influence the award of any government contract," [PBSJ spokesman] said. "PBS&J is awarded contracts on its ability and nothing else." . . .

The Breland contribution was just one of the complex illegal donations that were part of the way PBS&J did business, Garcia said.

The story, according to Garcia: She used different accounting tricks to make reimbursements look like legitimate bonuses or business expenses. There were forms for repayment requests. When the "straw" donors owed tax on their reimbursement, the company covered it by raising their paychecks.

"On one occasion, I got a list with 40 to 80 names on it and reimbursement amounts from \$5,000 to \$20,000," said Garcia, 43.

⁶ Dan Christensen & Patrick Danner, *CAMPAIGN MONEY: Insider Alleges Donation Scheme: A Former Manager in the Engineering Firm PBS&J Detailed an Alleged Company Practice of Using Employees as 'Straw' Donors to Political Campaigns*, MAIMI HERALD (Oct. 2, 2006) A1.

Another employee who pleaded guilty to the embezzlement, former Accounts Payable Manager Rosario Licata of Davie, was also involved, Garcia said. Among other things, she typed Breland's check. . .

Id.

H. PBSJ Damage Control, Backpedaling & Prompt Civil Closure Agreements Based on Demonstrably Inaccurate Data From the Aggrieved Vendor(s)

21. In light of PBSJ's persistent denials of post-1990's illegal conduct, the PBSJ frontline spokesman and criminal defense counsel, Mark Schnapp, Esq. trivializes his client's obvious pattern of greasing the political machinery without temporal "post-1990's" limits.

"In the 1990s, there was some reimbursement of [employees for] political contributions," he said. But those gifts, he claimed, were more a case of a few bad apples, not a rotten corporate culture."⁷

⁷ Matthew Murray, *DOJ Eyes Donor Reimbursement*, ROLL CALL (Oct. 12, 2006). "Benson Weintraub, an attorney for Maria Garcia, one of the three former PBS&J employees, suggested that the 2002 corporate reimbursement for the Georgia Senate race is just the tip of the iceberg."

"It's our impression that there has been a wide proliferation of political corruption by PBS&J," Weintraub said. "We believe that the illegal campaign contributions were widespread on a national basis.

"The more information [that is] uncovered will indicate the scale and scope of a pattern of illegal campaign contributions," he said.

Garcia's attorney also said a member of PBS&J's board recently told him the reimbursement of illegal campaign contributions "unfortunately still continues today."

Mark Schnapp, an attorney for PBS&J, acknowledged that the reimbursement Deloach admitted to was not an isolated incident. . . *Id.* (emphasis added).

22. The pre-eminent Capitol Hill daily described the Cleland matter this way:

Documents obtained by *Roll Call*, first reported by the *Miami Herald*, suggest that DeLoach was not alone in reimbursing PBS &J employees from company coffers, though he seems to be the only one who used embezzled money.

In a fax dated March 2002, Jim Breland appears to urge Skip Homan, a fellow PBS&J executive, to make a donation to the re-election campaign of then-Sen. Max Cleland (D-Ga.).

"Bob Matthews called with this request ... a 'personal favor'," the fax cover sheet reads, "Bob also said the contribution would not go unnoticed by [Georgia] Gov. [Roy] Barnes. He is strongly backing Sen. Cleland."

The second page of Breland's fax, also dated March 15, 2002, appears to be on company letterhead, titled "Contribution

Request Form":

"PBSJ Employee Requesting Contribution: Jim Breland

"Name of Payee on Check: Friends of Max Cleland

"Amount of Contribution Requested: \$2,000."

An attached Post-It reads: "To be reimbursed."

Id.

I. Does the "Revolving Door" of Political & Government Contractors/Procurement Officials Lend Itself to Conditions In Which PBSJ Must Diminish the Electoral Franchise and the Significance of Violating Federal, State & Local Election Laws?

24. The core of the government's decision not to "credit" Complainant with full, complete, and unqualified cooperation at sentencing in connection with self-reporting the misappropriation (not political corruption information they believed had limited or no utility in 2005) as promised, was modified by the government due to her opening of Pandora's Box which gives considerable substance to the impression based on evidence, not speculation that no law enforcement agency is seriously examining the potential campaign

violation laws committed by PBSJ and its employees, criminal and civil; corporate and individual.⁸

J. The "Real" PBSJ

25. PBSJ— make no mistake— envelope themselves as "model corporate citizens" with the trappings and appearance of "respectability" only as their spin doctors, public relations firms, and even as attorneys arrogantly PREDICT that no criminal charges will be brought against the company, *inter alia* for violation of FECA is a serial criminal, a corporate offender with individuals committing continuing offenses.

K. More PBSJ Back Pedaling

26. *Roll Call* reported that: "Mark Schnapp, an attorney for PBS&J, . . . denied that the company is the subject of a DOJ investigation and that the company systematically abused campaign finance laws." Id.

Mark Schnapp, a Miami lawyer for PBS&J, acknowledged that company money apparently was used in the 1990s to make illegal reimbursements but said they "were not of any significant magnitude."

"Charges shouldn't be on the table, and as far as I know they aren't," Schnapp said.

Schnapp said DeLoach carried out the reimbursement scheme described by the government in court papers alone to put "himself into a highly visible position in the Mel Martinez campaign." He did not elaborate.

⁸ Similarly, DeLoach's counsel recently stated in court pleadings that "... [I]t is in the company's interest to further discredit Mr. DeLoach as a potential witness and to keep public focus on his individual wrongdoing." (DE 50-2)(emphasis added). As to Complainant, a *fortiori*, her public statements about the lackluster pursuit of this matter by the government has subjected her to impermissible constitutional retaliation as alleged in case No. 06-20583-Cr-King, *supra*.

PBS&J has made more than \$500,000 in political contributions since 2003. The alleged scheme to repay contributions emerged during a probe into the embezzlement led by the U.S. Attorney's Office and the FBI, which has gone on for a year.⁹

Does PBSJ know something more about not being charged for violating federal election laws than us? Consider Schnapp's prediction:

Schnapp declined to discuss the nature of the improper donations but says he does not expect the company will be charged because of them.¹⁰

M. PBSJ's Favorable Disposition With the Civil Division of DOJ Washington Settling All Claims by PBSJ for Fraudulent Over Billing and False Claims as a Federal Government Contractor

27. PBSJ did, however, reach a very sweet settlement with its federal government contractors resulting in a net payment by PBSJ of only \$6.4 million pursuant to the False Claims Act, 31 U.S.C. §§ 3729-3733.¹¹

⁹ *Loc. Cit.*, Christenson & Danner, MIAMI HERALD (SEPT. 19, 2006).

¹⁰ <http://enr.construction.com/news/finance/archives/061002d.asp> (10/2/2006).

¹¹ "We recognize sound policy reasons may exist for providing the FEC with independent litigating authority in this Court for actions enforcing the FECA. Congress' decision to create the FEC as an independent agency and to charge it with the civil enforcement of the FECA was undoubtedly influenced by Congress' belief that the Justice Department, headed by a Presidential appointee, might choose to ignore *% infractions committed by members of the President's own political party. See, e.g., Federal Election Reform, 1973: Hearings before the Subcommittee on Privileges [sic] and Elections and the Senate Committee on Rules and Administration, 93d Cong., 1st Sess., 17, 177, 186 (1973); Federal Election Campaign Act of 1973: Hearings before the Subcommittee on Communications of the Senate Committee on Commerce, 93d Cong., 1st Sess., 70-71 (1973)." Rehnquist, Ch. J. (for the Court)(emphasis added).

28. Though this Agreement is not directly germane to matters within the jurisdiction of this agency, the agreement binds a number of governmental components from further claims or prosecution against PBSJ, including the IRS:

"4. Notwithstanding any term of this Settlement Agreement, specifically reserved and excluded from the scope and terms of this Settlement Agreement as to any entity or person (including PBSJ) are the following: (a) Any civil, criminal or administrative liability arising under Title 26, United States Code (Internal Revenue Service); (b) any criminal liability. . ."

Id.

29. However, the agreement is silent as to any other matter within the jurisdiction of an agency of the United States, e.g., FEC, especially since the agreement is construed in the limited context of "the scope and terms of this Settlement Agreement" regarding fraud and over billing of federal government contractors, not the investigation of violations and potential sanctions for violation of federal election laws. To stipulate otherwise would be void and contrary to public policy and the administration of justice.

30. This Agreement does not immunize the respondent corporation or its officers, past and present, from criminal or civil liability arising from demonstrably provable violations of federal election laws within the jurisdiction of the FEC.

CONCLUSION

A. Introduction

That the FEC is an "independent agency" statutorily politically balanced and enhanced by a professional career staff with particularized non-partisan expertise is of paramount importance in this case.

The fact that complainant first exposed evidence of serial federal, state and local campaign violations 24 months ago—and has never been re-interviewed by any law enforcement agency or the FEC—especially since the US Attorney for the Southern District of Florida claims there is an "ongoing investigation" is not only appalling, but apparently impacted by outside considerations.

B. FBI & DOJ Ignore Evidence of Campaign Violations

Two years has been more than adequate, by any reasonable prosecutorial standard, to develop and charge a case with testimonial and documentary evidence obtained or discoverable much earlier (despite complainant's plea apparently, rebuffed by the US Attorney 24 months ago, that search warrants be executed upon respondent's electronic and other records to preserve evidence), the *primum* delay [in "prosecution" and "crediting" petitioner's cooperation now, at sentencing, is pretextual] and is the product of a largely inarticulable stench¹² of the relationship at the top of government contractors and big government, what President Eisenhower called the Military Industrial Complex.

C. 'Next-Generation' Military-Industrial Complex

However, Ike never envisioned the 'next-generation' relationship of *global- technological* – military – commercial relationships— as if on steroids — with the "revolving door" which is used each day at PBSJ.

¹² As stated by Justice Stewart in another context, "I know it when I see it." *Jacobellis v. Ohio*, 378 US 184, 197 (1964).

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D. Retaliation for Complainant's Cooperation

Finally, complainant's substantial assistance— according to the government for sentencing purposes— was to relate only to her role in the misappropriation offense, not the illegal campaign contributions. That was fine.

However, when complainant's counsel demanded that the government certify petitioner's substantial assistance to the sentencing judge, it balked, not because she didn't perform as promised, but now the prosecutor states there is an amorphous "ongoing investigation" and does not want complainant credited *inter alia* until the government 'decides' *whether*, after 2 years, they should "use" her as a witness.

E. Review by Independent Non-Partisan Agency & Courts

In conclusion, the independence and non-partisan pressures of the conventional law enforcement process is checked by an INDEPENDENT investigation of the factual assertions, sworn to below, set forth herein by this agency unaffected by the undeniable pressures of high stakes lobbying for political access created by the feeding frenzy over campaign contributions.

In this case, the evidence plainly demonstrates evidence of material non-compliance and major corporate and individual violations of federal election laws and regulations. An investigation should be undertaken, *instantly*, assigned an MUR, and allocated staff commensurate with the seriousness of the proof and nature of the charges to expedite the enforcement process.

Finally, the US Constitution's Separation of Powers doctrine vests full final discretion and authority in a "neutral and detached" Article III Judge to place all of these factors and a myriad of other issues in context insulated from the political pressures of the outside powers that be.

Respectfully submitted,
MARIA M. GARCIA
Complainant

By:


MARIA M. GARCIA

29044253606

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ATTACHMENTS:

Privacy Act Waiver

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

MUR No. _____

_____X

In Re: The PBS&J Corp.
5300 W. Cypress Street
Suite 200
Tampa, Florida 33607
[EID] No. 59-1494168,

Respondent.

_____X

COMPLAINANT'S PRIVACY ACT WAIVER

I, MARIA M. GARCIA, complainant in the referenced matter, hereby **WAIVE MY RIGHTS** under the Privacy Act of 1974, 5 U.S.C. §§552a, *et seq.*, to authorize and request this agency, the FEDERAL ELECTION COMMISSION (FEC), to release any and all records, verbal information, documents, and data compilations of any kind in any system of records maintained by this agency, upon request, to:

BENSON WEINTRAUB, Esq.

1 E. Broward Blvd. #700

Ft. Lauderdale, FL. 33301

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[CONTINUED ON NEXT PAGE]

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I HEREBY WAIVE MY RIGHTS UNDER THE PRIVACY ACT OF 1974
TO AUTHORIZE AND REQUEST DISCLOSURE OF THE RECORDS
DESCRIBED ABOVE TO THE INTENDED RECIPIENTS, ON
REQUEST, NOTWITHSTANDING FOIA. THANK YOU.

By: 
MARIA M. GARCIA

NOTARY ATTESTATION

Before me this date appeared Maria M. Garcia, personally known to me and bearing personal identification, and after first being duly sworn, affixed her signature above to the second page of a 2-page document entitled PRIVACY ACT WAIVER which was SUBSCRIBED and SEALED UNTO ME this 27 day of February, 2007.

By: 

Seal:



DEBORAH SHERMAN
MY COMMISSION # BD 446080
EXPIRES: October 12, 2008
Renew This Notary Now Service

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CERTIFICATE OF SERVICE

I certify that the foregoing Complaint was sent via FEDEX on the 17 day of February 2007, Air Bill No. 7981 1648 3453 to:

**Office of General Counsel
ENFORCEMENT DIVISION
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463**

By: 